

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ERIK DEMETRIUS WHITE,

Plaintiff,

ORDER

v.

14-cv-759-wmc

KEITH TANULA,

Defendant.

On April 22, 2016, defendant Keith Tanula moved for summary judgment on plaintiff Erik Demetrius White's Eighth Amendment excessive force claim. Plaintiff's opposition materials were due on June 1, 2016, but instead of filing any materials in opposition to summary judgment, he filed a renewed motion for assistance recruiting counsel. Magistrate Judge Crocker denied the request for counsel, stating that he was not persuaded that the complexity of the case exceeds plaintiff's ability to litigate it. (Dkt. #38) (citing *Pruitt v. Mote*, 503 F.3d 647, 653 (7th Cir. 2007)).

Judge Crocker further explained that this is a straightforward excessive force case, and plaintiff simply needed to provide his version of events to the court in order to respond to defendant's motion for summary judgment. Judge Crocker also provided specific, detailed instructions about how plaintiff should respond. In particular, plaintiff was told that he did not need to file a legal brief or even cite any legal authority in his response materials. Finally, Judge Crocker told plaintiff that the court would not consider any further requests for counsel until plaintiff had at least made a good faith effort to comply with the instructions. He also gave plaintiff an extension of time, until September 20, 2016, to file his opposition materials to defendant's motion for summary judgment.

Plaintiff's deadline has come and gone, and plaintiff has not responded to defendant's motion for summary judgment or to Judge Crocker's most recent order. In fact, the court has received no communications from plaintiff at all. Accordingly, the court is prepared to dismiss plaintiff's case for his failure to comply with a court order and his failure to prosecute his case. Fed. R. Civ. P. 41(b). Given how far the case has progressed, such dismissal would be with prejudice.

Before the court enters a dismissal order, however, the court will give plaintiff *one final chance* to respond to defendant's motion for summary judgment. If plaintiff does not file opposition materials to defendant's summary judgment motion by October 18, 2016, this case will be dismissed with prejudice. In light of the delay in resolving summary judgment, the current schedule for pretrial filings and trial in this case is stricken and will be reset if necessary after summary judgment is resolved.

ORDER

IT IS ORDERED that plaintiff Erik Demetrius White may have until October 18, 2016 to file a response in opposition to defendant's motion for summary judgment. If he does not file opposition materials by that date, the court will dismiss the case with prejudice under Fed. R. Civ. P. 41(b). The current schedule in this case is stricken.

Entered this 4th day of October, 2016.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge